

SENATE BILL REPORT

SB 6092

As of March 6, 2007

Title: An act relating to improving the administration of taxes by implementing weight-based taxation for moist snuff.

Brief Description: Implementing weight-based taxation of moist snuff.

Sponsors: Senators Keiser, Delvin, Poulsen, Morton and Tom.

Brief History:

Committee Activity: Ways & Means: 3/05/07.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: The tobacco products tax is the tax that applies to tobacco products, with the exception of cigarettes, which has its own tax. Examples of tobacco products are cigars, pipe tobacco, and chewing tobacco. The tobacco products tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state. The tax is based on the wholesale price. The wholesale price is the price charged by the manufacturer to a distributor.

In November 2002, the voters approved I-773 which increased the tobacco products tax from 74.9 percent of wholesale price to 129.42 percent of wholesale price. Revenues from the rate increase were deposited in the Health Services Account.

In 2005, the Legislature passed SB 6097 that reduced the rate at which tobacco products are taxed. The tobacco products tax rate was reduced to 75 percent of taxable sales price. The tax on cigars was reduced to the lesser of 75 percent of taxable sales price, or 50 cents per cigar. In addition, this bill provided enforcement mechanisms that essentially mirrored those in place for cigarette taxes.

The current distribution of revenue from the tobacco products tax is as follows: 37 percent to the General Fund; 50 percent to the Health Services Account; and 13 percent to the Water Quality Account.

The Department of Revenue administers and collects the tobacco products tax. The Department of Revenue appoints enforcement officers of the Liquor Control Board as the Department's authorized agents to engage in enforcement activities.

Summary of Bill: The bill as referred to committee not considered.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

EFFECT OF PROPOSED SUBSTITUTE (Ways & Means): The taxation of moist snuff is changed from a tax based on wholesale price to a weight-based tax.

The tax on moist snuff is changed from 75 percent of the wholesale price to \$1.88 cents per ounce. Moist snuff sold in containers or packages with a net weight of less than 1.2 ounces are taxed as if they had a net weight of 1.2 ounces.

The distribution of the taxes collected on all tobacco products is as follows: 62 percent to the Health Services Account; 28 percent to the General Fund; and 10 percent to the Water Quality Account.

"Moist snuff" is defined as any finely cut, ground, or powdered tobacco that is not intended to be smoked; but does not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

The Department of Revenue is required to periodically advise the Legislature on the state of administration of the tobacco products tax.

Sixteen million dollars that is generated from the tax change is deposited into the newly created local public health financing account. The funds are distributed by county population to address public health functions of statewide significance.

Appropriation: None.

Fiscal Note: Requested on February 22, 2007.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: U.S. Tobacco has been in litigation with the Department of Revenue on the current way the tax is imposed. The company made a decision to settle with DOR. Both DOR and U.S. Tobacco feel that there will be future losses in the tax base if the structure is not changed. Premium priced products have been reduced from 91 percent of the market to 59 percent of the market. We believe that the current tax results in a subsidy to cheaper brands.

CON: We oppose weight-based taxes on spit tobacco because they do not increase over time like an ad valorem tax. Sixty percent of kids actually use the premium products. These are the most heavily marketed brands. We think a floor should be set with the current ad valorem method. If you use the weight-based tax, set a higher floor so that no one gets a tax break. Harbor wholesale collects the tax on behalf of the state. We have to keep track of the taxes. The current system is easy to track, but a weigh-based tax would be hard to track and report accurately. This would have a large effect on the lower priced products versus the high priced products. I don't think this will provide more revenues to the state. This is a shift of taxes so a person who has higher prices pay the same rate as persons with lower prices. In 2005, you just decreased the tax, to get the illegitimate products back into the stores. This conflicts with that. It doesn't make sense that this will generate as much as the fiscal note suggests.

Persons Testifying: PRO: Jim Halstrom, U.S. Tobacco Public Affairs; Ed Roberson, Beacon Consulting.

CON: Nick Federici, American Lung Association of Washington; TK Bentler, Washington Association of Neighborhood Stores; Justin Ericksen, Harbor Wholesale.